MGN

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO.3948 OF 2006

Smt. Sumati Khanderao Shivalkar & Ors..Petitioners
Vs.
State of Maharashtra & Anr ..Respondents

Mr. D.B. Savant, for the petitioenrs.
Mrs. M.P. Thakur, AGP for Respondent No.1.
Mr. C.G. Gavnekar with Ms. D.Sawant, for respondent No.2.

CORAM : F.I. REBELLO &
S.J.VAZIFDAR, JJ.
DATED : 2ND MARCH, 2007.

P.C.

. After hearing the Counsel for both the parties it is clear that in the revised development plan as notified, site No.38 continues to be reserved for Z.P. Quarters. In the new plan also it is partly affected by road widening and Nallah. The petitioners approached this Court on the ground that the reservations has lapsed and consequently the declaration. The petitioners had earlier approached this Court by Writ Petition No.3560 of 1999 which was disposed of on 3rd March, 2005. The petition was filed before revised sanctioned plan was notified. We held that notice served under Section 127 of the M.R.T.P. Act was not a notice contemplated by the said Section and in the light of that there was no de-reservation and consequently the petition was dismissed. The petitioners thereafter have served fresh notice dated 7th May, 2005. This notice was served on the Chief Officer, Alibag Municipal Council. The land is reserved not for Alibag Municipal Council, but for the Zilla Parishad. A perusal of Section 127 would require that the

owner or any person interested in the land may serve notice on the Planning Authority, Development Authority or as the case may be, Appropriate Authority to that effect. Appropriate Authority has been defined under Section 2(3) to mean any public authority on whose behalf land is designated for a public purpose in any plan or scheme and which is authorised to acquire. No such notice has been served on the authority. Once that be the case in our opinion this is not a fit case to exercise our extra ordinary jurisdiction as there is no de-reservation. We make it clear that we have not gone into the issue as to whether after the plan has been renotified after modification whether fresh period of 10 years is required to be counted from the date of such revised plan which in this case was 26th October, 2000.

With the above observations, petition stands disposed of.

(**F.I.REBELLO**, J)

(**S.J.VAZIFDAR, J)**